

Message Text

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AMEMBASSY JAKARTA

C O N F I D E N T I A L NEW DELHI 16699

E.O. 11652: GDS

TAGS: PLOS, IN

SUBJECT: LOS TALKS WITH DR. JAGOTA IN NEW DELHI

SUMMARY: ON DECEMBER 16 JOHN NORTON MOORE MET WITH DR. JAGOTA AND SECRETARY TRIVEDI OF THE INDIAN MINISTRY OF EXTERNAL AFFAIRS TO DISCUSS A FULL RANGE OF LOS ISSUES. TRIVEDI AND JAGOTA INDICATED UNDERSTANDING OF THE US POSITION ON STRAITS AND ON THE NEED FOR AN ECONOMIC ZONE WHICH WOULD NOT INHIBIT NAVIGATIONAL FREEDOM. THEY REITERATED THE INDIAN INTEREST IN A 30-MILE CONTIGUOUS ZONE, A COASTAL ARCHIPELAGO AROUND THE ANDAMAN AND NICOBAR ISLANDS, CONTROL OF THE MARGIN (GANGES SEDIMENTS IN THE INDIAN OCEAN FAN), AND A CONSENT REGIME OVER MARINE SCIENTIFIC RESEARCH. END SUMMARY.

1. IN DISCUSSIONS WITH MOORE AND EMBASSY FIRST SECRETARY ROBERT OBER IN THE MORNING AND WITH AMBASSADOR MOYNIHAN AT LUNCH, THE INDIAN LOS TEAM MADE THE FOLLOWING POINTS:

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A. STRAITS: DR. JAGOTA AND SECRETARY TRIVEDI (MEA

SECRETARY--EAST) LISTENED TO MOORE'S POINTS ON THE IMPORTANCE OF UNIMPEDED TRANSIT OF STRAITS AND SEEMED TO AGREE THAT THIS ISSUE WOULD NEED TO BE ACCOMODATED AND THAT THE TREND WAS IN FAVOR OF UNIMPEDED PASSAGE OR TRANSIT PASSAGE.

B. ARCHIPELAGO: MOORE POINTED TO THE OPPOSITION OF BOTH MARITIME AND ARCHIPELAGO STATES TO AN EXTENSION OF THE ARCHIPELAGO CONCEPT TO ISLANDS UNDER THE CONTROL OF CONTINENTAL STATES. WITHOUT CONCEDING INDIAN INTEREST IN HAVING THE ARCHIPELAGO CONCEPT APPLIED TO THE ANDAMAN AND NICOBAR ISLANDS, JAGOTA SEEMED SOMEWHAT SHAKEN IN THE STRENGTH OF HIS CONVICTION.

C. ECONOMIC ZONE AND CONTINENTAL MARGIN: JAGOTA INDICATED THE TWO SIDES ARE CLOSE ON THE ECONOMIC ZONE, AND HE UNDERSTOOD THE STRESS OF MOORE THAT THE ZONE SHOULD BE AN ECONOMIC OR RESOURCE ZONE AND NOT SOMETHING MORE. HE DID, HOWEVER, INDICATE A CONTINUED INTEREST IN A 30-MILE (E.E., 18 MILES BEYOND THE TERRITORIAL SEA) CONTIGUOUS ZONE TO COMBAT ILLEGAL SMUGGLING. HE ALSO INDICATED THAT REVENUE-SHARING BEGINNING AT 200 MILES WAS THE APPROPRIATE COMPROMISE FOR BROAD MARGIN STATES, BUT HE REFUSED TO BE PINNED DOWN ON HOW THE MARGIN WOULD BE DELIMITED. HE DID EXPRESS AN INTEREST IN THE HEDBERG FORMULAE.

D. MARINE POLLUTION: JAGOTA AGREED THAT STANDARD-SETTING FOR VESSEL-SOURCE POLLUTION SHOULD BE THROUGH IMCO BUT INDICATED A CONTINUING INTEREST IN A 200-MILE ENFORCEMENT ZONE. HE DID INDICATE HE WAS STUDYING A NARROWER MILEAGE FIGURE THAN 200 MILES. IN RESPONSE TO A DEMARCHE BY MOORE ON THE DOUBLE STANDARD ISSUE, JAGOTA SEEMED RESPONSIVE TO ENVIRONMENTAL ARGUMENTS AND THE POINT THAT ENVIRONMENTAL CONTROLS ON CONTINENTAL MARGIN EXPLOITATION WOULD NOT BE COSTLY. HE GRUDGINGLY CONCEDED THAT PERHAPS WE COULD AVOID THE DOUBLE STANDARD IF THIS WAS THE CASE.

E. MARINE SCIENTIFIC RESEARCH: JAGOTA RESISTED ALL ARGUMENTS IN FAVOR OF THE US APPROACH AND REITERATED THE INDIAN POSITION IN FAVOR OF CONSENT REGIME WITHIN THE ECONOMIC ZONE. HE ALLEGED UNSPECIFIED ABUSES OF SCIENTIFIC RESEARCH FREEDOM IN THE PAST.

F. DISPUTE SETTLEMENT: JAGOTA SEEMED SYMPATHETIC TO DISPUTE SETTLEMENT BUT TRIVEDI ARGUED AGAINST IT ON GROUNDS THAT ICJ JUDGES WERE AN EXAMPLE OF THE INEVITABLY BIASED INTERNATIONAL JUDICIARY AND THAT BILATERALS WERE THE CONFIDENTIAL

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BEST WAY OF RESOLVING DISPUTES. TRIVEDI'S VIEWS SEEMED SOMEWHAT MODERATED AFTER MOORE POINTED OUT LOS AS LARGELY A MULTILATERAL PROCESS (AND A NEW OCEANS TRIBUNAL COULD MEET THE NEEDS OF INTERPRETATION OF THE MULTILATERAL TREATY). SUBSEQUENTLY, JAGOTA INDICATED COMPULSORY DISPUTE SETTLEMENT WAS POSSIBLE DEPENDING ON HOW JUDGES WERE SELECTED AND WHICH CASES WERE SUBMITTED TO TRIBUNAL.

G. DEEP SEABEDS: JAGOTA REITERATED THE INDIAN POSITION

IN FAVOR OF A STRONG AUTHORITY AND, THOUGH HE AGREED TO NEED TO ACCOMMODATE THE INTERESTS OF ALL GROUPS, HE HAD NO SPECIFIC SUGGESTION AS TO HOW THE US INTERESTS IN HAVING SECURE ACCESS WERE TO BE ACCOMMODATED. MUCH OF THE LUNCHEON FOCUSED ON THE NEED TO PROTECT US AS WELL AS DEVELOPING COUNTRY INTERESTS IN DEEP SEABED MINING AND THE IMPORTANCE OF TIMING IN THIS REGARD.

H. ON PROCEDURAL ISSUES, JAGOTA FAVORED THE FORMATION OF NEGOTIATING GROUPS AT GENEVA RATHER THAN FORMAL WORK. HE ALSO STRESSED THE NEED FOR CONSENSUS PROCEDURES FOR AS LONG AS PROVES POSSIBLE.

2. IN A SUBSEQUENT MEETING IN THE EVENING, MOORE AND OBER MET WITH DR. SEN, THE SECRETARY-GENERAL OF THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE, TO DISCUSS LOS ISSUES. DR. SEN INDICATED HE HAS NOW IN THE MIDDLE OF FORMULATING HIS RECOMMENDATIONS SO THE TIMING OF THE MEETING WAS GOOD. HE LISTENED ATTENTIVELY TO A SUMMARY OF US LOS POSITION AND INDICATED IN RESPONSE TO OUR STRAITS DISCUSSION THAT IF THE COMMITTEE COULD NOT COME UP WITH A STRAITS POSITION ACCEPTABLE TO THE US AND USSR IT WOULD BE BEST TO INDICATE THAT THIS ISSUE IS POLITICAL AND SHOULD NOT BE DEALT WITH BY THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE. HE ALSO INDICATED HE HAD TRIED TO OBTAIN UNIMPEDED TRANSIT LAST YEAR BUT HAD BEEN PREVENTED BY CERTAIN STATES WHO HAD DECLARED THIS WAS UNACCEPTABLE. MOORE INDICATED THERE MIGHT BE GREATER SUPPORT THIS YEAR AFTER THE STRONG TREND AT CARACAS IN FAVOR OF UNIMPEDED TRANSIT.

3. FOR OTHO ESKIN, D/LOS: PLEASE POUCH, SLUGGED FOR DR. JAGOTA, A COPY OF THE HEDBERG ARTICLE ON DELIMITATION OF THE

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MARGIN AND REQUEST EPA/CEQ/L TO DEVELOP A BRIEF PAPER TO SUBMIT TO DR. JAGOTA ON THE IMPORTANCE OF MINIMUM INTERNATIONAL STANDARDS FOR PREVENTION OF POLLUTION FROM MINERAL EXPLOITATION IN THE MARGIN AND ON THE LOW COST OF SUCH STANDARDS. JAGOTA HAS REQUESTED BOTH HEDBERG ARTICLE AND SUPPORTING MATERIAL ON LOW COST OF MARGIN MINIMUM STANDARDS.

4. ANALYSIS: JAGOTA WAS PLEASED AT THE VISIT AND ON HIS OWN ARRANGED THE VISIT OF MOORE WITH SECRETARY TRIVEDI IN THE MINISTRY OF EXTERNAL AFFAIRS. OVERALL THERE SEEMED TO BE SOME MODERATION IN THE INDIAN POSITION ON POLLUTION AND DISPUTE-SETTLEMENT ISSUES BUT NO VISIBLE PROGRESS ON DEEP SEABEDS OR SCIENTIFIC RESEARCH.
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